

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BAYER SCHERING PHARMA AG
and BAYER HEALTHCARE
PHARMACEUTICALS INC.,

Plaintiffs/Counter-Defendants,

v.

**WATSON PHARMACEUTICALS, INC.
and WATSON LABORATORIES, INC.,**

Defendants/Counter-Plaintiffs,

and

SANDOZ INC.,

Defendant/Counter-Plaintiff:

**[PROPOSED] PARTIAL FINAL JUDGMENT UNDER FED. R. CIV. P. 54(b)
AND STAY OF FURTHER PROCEEDINGS PENDING APPEAL**

Defendants Sandoz Inc. (“Sandoz”), Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc. (“Watson”) (all Defendants, collectively, “Defendants”) have jointly moved the Court, pursuant to Fed. R. Civ. P. 54(b), to enter partial final judgment and certify for appeal the Court’s March 30, 2012 Order granting Bayer’s motion for summary judgment that United States Reissue Patent No. 37, 564 (“the ‘564 patent”) is not invalid as obvious. Plaintiffs have not opposed the Defendants’ joint motion. The Court, having granted the joint motion and having expressly found that there exists no just reason for delay, now enters final judgment as to the following claims in this case, pursuant to Fed. R. Civ. P. 54(b):

1. IT IS ORDERED AND ADJUDGED that final judgment is hereby entered in favor of Plaintiffs Bayer Schering Pharma AG and Bayer Healthcare Pharmaceuticals Inc. and against

1 Defendants Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc. on Counterclaim Two of
2 Watson's Answer, Affirmative Defenses and Counterclaims as to the validity of the '564 patent.
3 (See Dkt. No. 12, Counterclaims, ¶¶ 27-29).

4 2. IT IS ORDERED AND ADJUDGED that final judgment is hereby entered in favor
5 of Plaintiffs Bayer Schering Pharma AG and Bayer Healthcare Pharmaceuticals Inc. and against
6 Defendant Sandoz Inc. on the Second Counterclaim of Sandoz's Second Amended Answer and
7 Counterclaims as to the validity of the '564 patent. (See Dkt. No. 147, Counterclaims, ¶¶ 10-14).

8 3. This final judgment is entered solely with respect to the counterclaims listed above.

9 Further, after consideration of the Defendants' joint request for a stay of the remaining
10 proceedings in this Court, the Court hereby grants the requested stay of the determination of
11 remedies, including, *inter alia*, the deadlines set forth regarding damages discovery as between
12 Bayer and Sandoz in this Court's September 22, 2011 Order, until the mandate is issued by the
13 United States Court of Appeals for the Federal Circuit on appeal of this Partial Final Judgment.

14 4. IT IS ORDERED that the Court will retain jurisdiction
to resolve MOTION (#339) Pursuant to 35 U.S.C. 271(e).

15 **IT IS SO ORDERED.**

16 Dated: May 25, 2012



Honorable Kent J. Dawson
United States District Court
District of Nevada